

UNITED STATES DISTRICT COURT

for

NORTHERN DISTRICT OF CALIFORNIA

San Jose Venue

FILED

MAR 21 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Request to Modify the Conditions or Term of Supervision with Consent of the Offender

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Tony Xiaoliang Wang Docket No.: CR 5:07-00305-01 RMW

Name of Sentencing Judge: Ronald M. Whyte
United States District Judge

Date of Original Sentence: November 13, 2007

Original Offense:

Count 3: Mail Fraud, 18 U.S.C. § 1341, a Class C felony

Original Sentence: Three years probation

Special Conditions: Community confinement four months; home confinement with electronic monitoring 4 months; special assessment \$100; restitution \$47,839.99; alcohol treatment; access to financial information; no new lines of credit or debt; search; not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons; DNA collection, and not post any items for sale via internet auctions.

Type of Supervision: Probation

Date Supervision Commenced: November 13, 2007

Assistant U.S. Attorney: Hanley Chew

Defense Counsel: Edward Hung (Retained)

Petitioning the Court

To modify the conditions of supervision as follows:

The defendant shall participate in the Home Confinement with Electronic Monitoring Program and shall abide by all the requirements of the program for a period of six months. Other location verification methods may be utilized in conjunction with this program. The defendant shall pay the cost of monitoring at the prevailing rate unless it is determined by the probation officer that he has an inability to pay. A co-payment amount will then be determined by the probation officer. The defendant is restricted to his residence at all times except for activities which have been pre-approved by the probation officer, including employment, education, religious services, medical, substance abuse, or mental health treatment, attorney visits, court appearances, or court ordered obligations. During the term of home confinement, the defendant shall abstain from the use of alcohol and shall submit to drug or alcohol testing as directed by the probation officer.

Tony Wang
CR 5:07-00305-01 RMW

Page 2

Cause

<u>Charge Number</u>	<u>Violation</u>
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One	There is probable cause to believe that the offender violated special condition number one that states the defendant shall reside in a residential reentry center for a period of four months, to commence immediately in a location determined by the probation officer, and shall observe the rules of that facility.
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On March 7, 2008, approximately 45 days prior to his scheduled release date, the offender was discharged from Cornell Corrections due to a program failure. Specifically, Mr. Wang was unable to obtain employment within the required time frame.

Two	There is probable cause to believe that the offender violated the special condition which requires him to pay restitution in the amount of \$47, 839.99 at a rate of \$500 per month.
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To date, the offender has made no payments toward the court ordered restitution.

Mr. Wang admitted that while at the reentry center, he was unable to obtain employment within the required time frame. He attributes his lack of success to being unfamiliar with the San Francisco area and the fact that his first language is Cantonese. Mr. Wang has virtually no work history and has been instructed to participate in the employment assistance program at the Probation Office in an effort to assist the offender with job readiness skills. It is recommended that in lieu of the remaining 45 days of his residential reentry placement, that the offender's home confinement condition be modified to include an increase from four months to six months on home confinement. The offender has signed a waiver agreeing to the modification and he understands that he will be required to participate in the job readiness classes until he is able to secure gainful employment.

With regard to the offender's failure to make timely restitution payments, Mr. Wang indicates that he has been unable to make restitution payments due to a lack of funds and states that as soon as he obtains employment, he will begin making payments. It is recommended that offender's first payment be deferred until no later than July 1, 2008, to allow the him to complete the job readiness program and secure employment.

The Assistant U.S. Attorney, Hanley Chew, and Defense Counsel, Edward Hung, have been notified and there are no objections.

Tony Wang

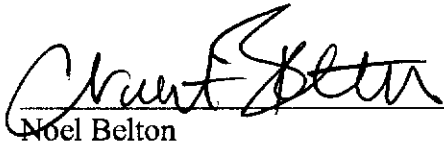
Page 3

CR 5:07-00305-01 RMW

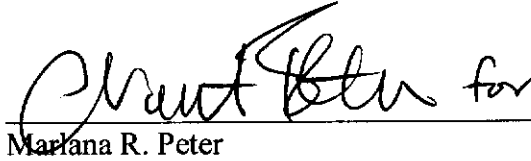
Address of offender: 3637 Madison Common
Fremont, CA 94538

Respectfully submitted,

Reviewed by:



Noel Belton
U.S. Probation Officer Specialist



Marlana R. Peter
Supervisory U.S. Probation Officer

Date Signed: March 13, 2008

THE COURT ORDERS:

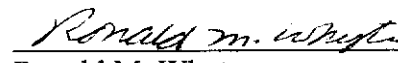
☒ To modify the conditions of supervision as follows:

The defendant shall participate in the Home Confinement with Electronic Monitoring Program and shall abide by all the requirements of the program for a period of six months. Other location verification methods may be utilized in conjunction with this program. The defendant shall pay the cost of monitoring at the prevailing rate unless it is determined by the probation officer that he has an inability to pay. A co-payment amount will then be determined by the probation officer. The defendant is restricted to his residence at all times except for activities which have been pre-approved by the probation officer, including employment, education, religious services, medical, substance abuse, or mental health treatment, attorney visits, court appearances, or court ordered obligations. During the term of home confinement, the defendant shall abstain from the use of alcohol and shall submit to drug or alcohol testing as directed by the probation officer.

☒ The offender's first restitution payment shall be deferred until no later than July 1, 2008 to allow the him to complete job readiness training and secure employment.

- ☐ Submit a request for warrant
- ☐ Submit a request for summons
- ☐ Other:

3/17/08
Date


Ronald M. Whyte
United States District Judge

NDC-PROB 49 02/01/05

UNITED STATES DISTRICT COURT

for
NORTHERN DISTRICT OF CALIFORNIA

Defendant Name: Tony Wang
Docket No.: CR 07-00305-1 RMW

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term Of Supervision


I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel", I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

The defendant shall participate in the Home Confinement with Electronic Monitoring Program and shall abide by all the requirements of the program for a period of six (6) months. Other location verification methods may be utilized in conjunction with this program. The defendant shall pay the cost of monitoring at the prevailing rate unless it is determined by the probation officer that he has an inability to pay. A co-payment amount will then be determined by the probation officer. The defendant is restricted to his residence at all times except for activities which have been pre-approved by the probation officer, including employment, education, religious services, medical, substance abuse or mental health treatment, attorney visits, court appearances, or court ordered obligations. During the term of home confinement, the defendant shall abstain from the use of alcohol and shall submit to drug or alcohol testing as directed by the probation officer.

☐ continued on next page

I declare under penalty of perjury under the laws of the United States of America that the foregoing information is true and correct and that this declaration was executed on the date indicated at

Signed: 
Probationer or Supervised Releasee

Date: 3-11-2008

Witness: 
Noel Belton
U.S. Probation Officer Specialist

Date: _____